

**DEPARTMENT OF STATE REVENUE**

**FIRST SUPPLEMENTAL LETTER OF FINDINGS NUMBER: 04-970079**

**Sales and Use Tax**

**For The Period: 1990 Through 1995**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUES**

**I. Sales and Use Tax: Registration**

**Authority:** IC 6-2.5-8-1

The taxpayer protests the inclusion of invoices billed to the taxpayer's sister company.

**STATEMENT OF FACTS**

The taxpayer is an Indiana corporation. The taxpayer owns and operates nursing homes for the elderly in Indiana. More facts will be provided as needed below.

**I. Sales and Use Tax: Registration**

**DISCUSSION**

The taxpayer argues that invoices of its sister company (hereinafter "P") from 1990, 1992, 1993, and 1994 were wrongly included in the audit. The taxpayer states that P was billed the invoices in question, and that P is registered in Indiana and files a separate sales and use tax return. According to the taxpayer, the error arose from the fact that the taxpayer and its sister company use a common paymaster.

After the initial Letter of Finding was issued, the taxpayer sent in a written request for a rehearing. The taxpayer requested that the Department rehear the issue of the common paymaster and the penalty issue. The Department granted the taxpayer a rehearing on the common paymaster issue, but denied the rehearing on the penalty. The taxpayer then sent in additional information—a sampling of invoices showing that the sale was in fact made to the sister company and not the taxpayer. The Department was able to make a determination on the common paymaster issue based upon the invoice sampling.

**FINDING**

The taxpayer's protest is sustained.